

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**JOHN AND JANE DOE NO. 1,
et al.,**

Plaintiffs,

vs.

**BETHEL LOCAL SCHOOL
DISTRICT BOARD OF
EDUCATION, et al.,**

Defendants.

CASE NO. 3:22-cv-00337

JUDGE MICHAEL J. NEWMAN

DECLARATION OF ALVIN E. MATHEWS, ESQ.

1. My name is Alvin E. Mathews. I am over twenty-one years of age and I am fully qualified and competent in all respects to make this declaration. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.
2. Attached to this declaration is a true and accurate copy of my CV and Publications and Testimony during the past ten years.
3. At all times when serving in the capacity as an ethics expert, never have my expert qualifications been challenged. My ethics expert testimony has been accepted as admissible by all courts receiving it.
4. Since the adoption of the Ohio Rules of Professional Conduct in 2007, my daily practice of law has involved advising and defending lawyers in respect to those Rules.

EXHIBIT D

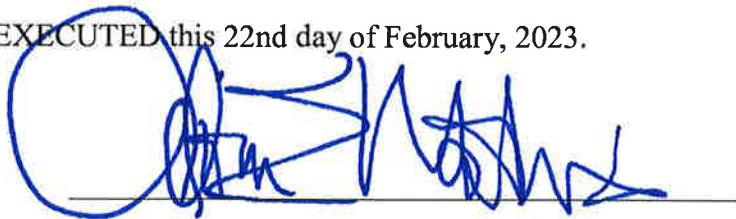
5. I have reviewed Plaintiffs' Memorandum in Opposition and Rule 11 Safe Harbor sent to the Board of Education's legal counsel. Neither change my expert opinions, which I hold to a reasonable degree of professional certainty:

- a. In cases such as this, involving important privileges, Plaintiffs' counsel have an affirmative duty to demonstrate compliance with the Ohio Rules of Professional Conduct and failed to do so here.
- b. The communications at issue are privileged under the attorney-client and executive session privileges and have not been waived by the Board of Education.
- c. If Plaintiffs' counsel determined the communications lacked privilege, there is no good faith reason to argue the privilege is waived. Likewise, if Plaintiffs' counsel determined the communications lacked privilege, there is no reason to warn Ms. Franz.

6. Counsel for Plaintiffs have not affirmatively demonstrated their mandatory compliance duties to the Court.

7. No lawyer has spoken on the matter of warning Ms. Franz not to waive the applicable privileges. It remains unknown who spoke to Ms. Franz, what was said and by whom, and when such alleged statements are made.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. EXECUTED this 22nd day of February, 2023.

A handwritten signature in blue ink, consisting of a large circular loop followed by several sharp, angular strokes, written over a horizontal line.

Signature

Alvin E. Mathews, Jr.

Partner



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Practices/Industries

- Ethics
- Professional Liability
- Complex Business Litigation
- Litigation & Dispute Resolution

Education

Miami University
(A.B., 1984)
Ohio Northern University
Pettit College of Law
(J.D., 1987)
National Moot Court Team;
National Privacy Law Team;
Appellate Advocacy Award;
American Jurisprudence
Award, Trial Practice

Overview

As a former Assistant Disciplinary Counsel in the Office of Disciplinary Counsel for the Supreme Court of Ohio, Alvin is recognized as a lawyer's lawyer who is called upon to represent solo practitioners, in-house counsel, and law firms on a variety of ethics and professional liability matters. Because of his considerable experience and knowledge, Alvin has been asked to provide representation on hundreds of legal ethics advisory opinions and lawyer discipline case investigations, including nearly 100 lawyer discipline trials and more than 20 oral arguments before the Supreme Court of Ohio.

Alvin is a litigator with experience in complex business and professional liability matters. He is also relied upon by other litigators to serve as an expert witness on lawyer conduct questions and has presented more than 200 continuing legal education seminars and published many articles on lawyers' ethical responsibilities. Recognized for his talent and skill, Alvin has been recognized by Ohio Super Lawyers every year since 2011 and named to *The Best Lawyers in America*® for Administrative & Regulatory Law.

Experience

- Advises attorneys and law firms regarding compliance with local rules of professional conduct.
- Provides confidential advisory opinions on a wide variety of ethics and professional liability topics, including client-lawyer confidentiality, lawyer advertising, social networking and websites, conflicts of interest, Interest on Lawyer Trust Account (IOLTA) management issues, fee disputes, terminating representation, multi-jurisdictional practice, unauthorized practice of law, sale and purchase of law firm practices, and ex-parte contact with employees.
- Reviews and responds to hundreds of ethics complaints, ranging from simple neglect of communication to severe malpractice.
- Guides attorneys through the disciplinary process, including when disciplinary commissions enforce formal disciplinary action, such as public reprimand, term suspension, indefinite suspension, or permanent disbarment.
- Represents lawyers in disciplinary hearings and trials, including arguing cases before the Supreme Court of Ohio.
- Offers bar admissions advice and representation for law students and graduates regarding law school and bar applications, character and fitness interviews, and admission proceedings.
- Provides expert witness testimony on legal ethics issues, including disqualification, liability and ethical responsibility, and legal fees.
- Provides counsel in complex business litigation matters, including trade secret disputes and the defense of legal malpractice cases.

Publications

- "As Cyber Risks Surge, Remember Attorneys' Ethical Duties," Law360 (April 2022)

Alvin E. Mathews, Jr.

Partner

Publications (Cont)

- “Ethics Encore: Ethical Obligations Related to Cybersecurity,” Cleveland Metropolitan Bar Journal (November 2021)
- Columbus Bar Association Lawyers Quarterly, Past Contributing Author

Presentations

- “Legal Ethics: Meeting Professional Obligations in the Midst and Aftermath of the COVID-19 Pandemic,” Ulmer Webinar (April 2020)
- “What Every Competent Real Estate Professional Needs to Know About Ethics,” Columbus Bar Association Real Property Law Institute (February 2020)
- “Professionalism,” Young Lawyer Connect, Ohio State Bar Association, Columbus, Ohio (December 2018)
- “Legal Ethics,” Developments in Labor and Employment Law, Columbus, Ohio (November 2018)
- “Recent Developments,” 2018 Ethics & Professionalism Seminar, Columbus, Ohio (November 2018)
- “Ethics/Professionalism,” 2018 Fall Consumer Bankruptcy Seminar, Columbus, Ohio (October 2018)
- “Professionalism,” Young Lawyer Connect: Professionalism, Law Office Management & Client Funds Management, Ohio State Bar Association, Columbus, Ohio (June 2018)
- “Panel Discussion: Engagement Agreements,” Professional Responsibility Seminar, Capital University, Columbus, Ohio (April 2018)
- “Best Practices in Disciplinary Investigations,” Annual Miller Becker Seminar, Columbus, Ohio (October 2017)
- “Ethics & Professionalism in Technologically Advancing World,” Columbus, Ohio (December 2017)
- “Top 10 Ways to Avoid Malpractice and Discipline,” 54th Annual Midwest Labor and Employment Law Seminar, Columbus, Ohio (October 2017)

Involvement

Professional Affiliations

- Law360 Legal Ethics Editorial Advisory Board (2021)
- Columbus Bar Foundation (*Fellow*)
- Ohio State Bar Foundation (*Fellow*)
- Ohio State Bar Association (*Former Council of Delegates Member*)
- Chief Justice Thomas J. Moyer Inn of Court (*Former Member*)

Community Involvement

- Miami University Alumni Association (*Board of Directors, 2005-2009*)
- Habitat for Humanity (*Former Board Member*)

Honors & Distinctions

- Named to the Ohio Super Lawyers List (2011-2022)
- *The Best Lawyers in America*, Administrative & Regulatory Law (2016-2023)
- Designated Best Lawyers Administrative / Regulatory Law “Lawyer of the Year” in Columbus (2022)
- Named a “Black Leader Worth Watching” by Profiles in Diversity Journal (2021)

Alvin E. Mathews, Jr.

Partner

Honors & Distinctions (Cont)

- AV Preeminent Peer Review Rated - Martindale-Hubbell

Admissions

- State of Ohio
- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Southern District of Ohio

APPENDIX B

Publications

My publications during the past ten years include:

- “As Cyber Risks Surge, Remember Attorneys’ Ethical Duties,” Law360 (April 2022).
- “Ethics Encore: Ethical Obligations Related to Cybersecurity,” Cleveland Metropolitan Bar Journal (November 2021).
- Ulmer’s Ethics and Professional Liability Bulletin:
 - “Lawyers are Responsible for Ensuring Effective Communication with Clients when Faced with Language or Other Communication Barriers” (Aug. 2, 2022)
 - “Ohio Board of Professional Conduct Advises on Conflicts Involving Part-Time Prosecutors and Judges” (April 19, 2022)
 - “Ohio Board of Professional Conduct Advises Judges May Provide Letters of Recommendation Under Certain Circumstances” (Feb. 4, 2022)
 - “New Opinion Warns Against Practicing Law Under Nationally Franchised Common Trade Name Owned by Non-Lawyers” (Nov. 10, 2021)
 - “Ohio Lawyers May Only Say They Are Specialists in Fields of Law Designated By the State Supreme Court” (Aug. 23, 2021)
 - “New Attorney Unclaimed Funds Law Takes Effect in Ohio” (July 7, 2021)
 - “Lawyers Who Are Sole Shareholders of Corporations May Represent Those Entities and Testify as Necessary Witnesses in Private Arbitration” (June 2, 2021)
 - “Ohio Lawyers and Their Firms Have Mutual Ethical Obligations to Clients When Lawyers Depart” (May 4, 2021)
 - “Ohio Adopts Four-Year Statute of Repose for Legal Malpractice Cases” (April 5, 2021)

Testimony

My trial and deposition testimony within the past four years as an expert witness includes:

- *Householder v. Honor and Principles Political Action Committee, et al.*, Perry County Court of Common Pleas, Case No. 18 CV 00097.